IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Misc. C.A. No. 428 of 2007

Wajubai Paika Meshram Vs. State Bank of India

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders

Court's or Judge's orders

Shri Borkar Adv. for applicant.
Ms. Ramani Adv. for respondent.

CORAM: C. L. PANGARKAR J.
Dated: 5th December, 2007.

This is an application for review of the order passed by the Court on 09.02.07 whereby Civil Revision Application No. 82/06 came to be rejected. Civil Revision Application No. 82/06 was filed against the order

of setting aside abatement and substitution of Legal Representatives of the deceased defendant on record.

Since the revision application came to be dismissed review application has been filed.

Shri Borkar the learned counsel for the applicant submits that the reasons as given by this Court for rejection of the revision are not correct in as much as the record does not show that the lawyer of the plaintiff did not care to inform the plaintiff about the death of the deceased-defendant and that is not one of the grounds for setting aside abatement. After having gone through the application for setting aside abatement it is seen that it is not so

clearly mentioned in the application that the lawyer did not inform the plaintiff about the death of the defendant. Even if there is no such statement in the application what could be gathered from the record has been mentioned in the order. After having gone through the record it was found that it was the duty of the lawyer to inform the plaintiff about the death of the defendant soon after having come to know of it. It is in this context it was so observed. In fact it was the duty of both the lawyers to inform about the same to the Court and it was the duty of the lawyer to inform the fact to his client. Contingency here has arisen because no such information was given by the

lawyer to the client. On facts it is found that because of that, application could not be made in time. I see no ground for review of the order. The application is rejected.

JUDGE

svk